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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 vs.
14 NEHEMIAH AVILA, CEASAR MARTINEZ,
15 and RICARDO MARMOLEJO,
16 Defendants.

17 Case No.: 2:21-cr-020 JAM

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AMENDED STIPULATION AND ORDER
CONTINUING STATUS CONFERENCE
AND EXCLUDING TIME UNDER THE
SPEEDY TRIAL ACT

Date: November 8, 2022
Time: 9:30 a.m.
Court: Hon. Dale A. Drozd

Plaintiff United States of America by and through Assistant United States Attorney Adrian Kinsella, and Attorney Todd Leras on behalf of Defendant Nehemiah Avila, Attorney Michael Long on behalf of Defendant Ceasar Martinez, and Attorney Dina Santos on behalf of Defendant Ricardo Marmolejo, stipulate as follows:

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AMENDED ORDER CONTINUING
STATUS CONFERENCE

1. This matter is set for a status conference before United States District Judge Dale A. Drozd on November 8, 2022. The matter had previously been assigned to United States District Judge Troy L. Nunley. On August 25, 2022, Chief Judge Kimberly J. Mueller reassigned this matter for all further proceedings to Judge Drozd. (ECF Entry 62). The parties thereafter filed a stipulation to continue the November 8 status conference to February 14, 2023. On November 3, 2022, the parties received a Clerk's Notice of Docket Correction indicating that this case had been reassigned to Judge Drozd in error. The Notice vacated the previous reassignment set out in ECF Entry 62 and reassigned the matter for all further proceedings to Senior United States District Judge John A. Mendez. By this Amended Stipulation, Defendants Avila, Martinez, and Marmolejo move to continue the status conference to February 14, 2023. The government does not oppose the request.

2. This case involves an ongoing task force investigation into a drug trafficking organization. The task force includes officers and agents from, among other agencies, the Sacramento Police Department, Federal Bureau of Investigation, and the Drug Enforcement Administration (hereafter collectively referred to as “the task force”). The initial portion of the investigation, which resulted in the arrests of Defendants Avila, Martinez, and Marmolejo, used two rounds of court-authorized wiretaps.

3. The task force's investigative techniques included the use of wiretaps on five different telephones and other legal process on at least thirteen target telephones. Investigation into these sources of supply is continuing, so a portion of the

**AMENDED ORDER CONTINUING
STATUS CONFERENCE**

1 investigative techniques and operations utilized to undertake it has remained under
2 seal to prevent notification of potential targets and the destruction of evidence. The
3 original prosecutor assigned to oversee the investigation departed the United States
4 Attorney's Office. Assistant U.S. Attorney Adrian Kinsella took over prosecution of
5 this matter and the simultaneous obligation to oversee the continuing investigation.
6 Assistant U.S. Attorney Kinsella provided an initial round of discovery to defense
7 counsel, which included reports of investigation, relevant wiretap authorization
8 applications, and over 3,500 intercepted telephone calls, up to and including Target
9 Telephone #5.

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12 4. The government is preparing supplemental discovery materials, including reports of
13 investigation, materials produced during execution of search warrants, drug results,
14 and audio and video footage of controlled purchases. Defense counsel requires
15 additional time to review these supplemental materials with their respective clients.
16 The defense also anticipates that release of this supplemental material may result in
17 additional discovery requests for material relevant to exploring potential defenses and
18 sentencing mitigation evidence.

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20 5. Defendants Avila and Martinez are in pre-trial detention at the Sacramento County
21 Main Jail. Defense counsel for all three defendants are engaged in continuing
22 discovery review and defense investigation as to the charged offenses and potential
23 mitigation evidence in the event of a negotiated disposition.

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25 6. Given the continuing defense investigation, reassignment of the matter, and the
26 government's representation regarding the impending supplemental discovery

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28 AMENDED ORDER CONTINUING
STATUS CONFERENCE

1 production, Defendants Avila, Martinez, and Marmolejo request to continue the status
2 conference to February 14, 2023. They further move to exclude time between
3 November 8, 2022 and February 14, 2023, inclusive, under Local Code T-4.

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5 7. All defense counsel represent and believe that failure to grant additional time as
6 requested would deny Defendants Avila, Martinez, and Marmolejo the reasonable
7 time necessary for effective preparation, considering the exercise of due diligence.

8 8. Based on the above-stated facts, Defendants Avila, Martinez, and Marmolejo request
9 that the Court find that the ends of justice served by continuing the case as requested
10 outweigh the best interest of the public and the Defendants in a trial within the time
11 prescribed by the Speedy Trial Act.

12 9. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, *et*
13 *seq.*, within which trial must commence, the time period of November 8, 2022 to
14 February 14, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. §
15 3161(h)(7)(A), and (B) (iv) [Local Code T-4] because it results from a continuance
16 granted by the Court at Defendants' request on the basis that the ends of justice
17 served by taking such action outweigh the best interest of the public and the
18 Defendants in a speedy trial.

19 10. Nothing in this stipulation and order shall preclude a finding that other provisions of
20 the Speedy Trial Act dictate that additional time periods are excludable from the
21 period within which a trial must commence.

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23 Assistant U.S. Attorney Adrian Kinsella, Attorney Michael Long on behalf of Defendant
24 Ceasar Martinez, and Attorney Dina Santos on behalf of Defendant Ricardo Marmolejo have

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27 AMENDED ORDER CONTINUING
28 STATUS CONFERENCE

1 reviewed this stipulation and proposed order and authorized Todd Leras via email to sign it on
2 behalf of their respective clients.

3 DATED: November 3, 2022

PHILLIP A. TALBERT
United States Attorney

5 By /s/ Todd D. Leras for
6 ADRIAN T. KINSELLA
7 Assistant United States Attorney

DATED: November 3, 2022

8 By /s/ Todd D. Leras
9 TODD D. LERAS
10 Attorney for Defendant
11 NEHEMIAH AVILA

DATED: November 3, 2022

12 By /s/ Todd D. Leras for
13 MICHAEL D. LONG,
14 Attorney for Defendant
15 CEASAR MARTINEZ

DATED: November 3, 2022

16 By /s/ Todd D. Leras for
17 DINA SANTOS
18 Attorney for Defendant
19 RICARDO MARMOLEJO

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28 AMENDED ORDER CONTINUING
STATUS CONFERENCE

ORDER

BASED ON THE REPRESENTATIONS AND STIPULATION OF THE PARTIES
AND THE CLERK'S NOTICE OF DOCKET CORRECTION (ECF ENTRY 67) IN THIS
MATTER, it is hereby ordered that the status conference, scheduled before United States District
Judge Dale A. Drozd on November 8, 2022, is vacated. A new status conference is scheduled
before Senior United States District Judge John A. Mendez on February 14, 2023, at 9:00 a.m.
The Court further finds, based on the representations of the parties and the request of all defense
counsel, that the ends of justice served by granting the continuance outweigh the best interests of
the public and the Defendants in a speedy trial. Time shall be excluded under the Speedy Trial
Act, 18 U.S.C. § 3161(h)(7)(B)(iv) and Local Code T-4, to allow necessary attorney preparation
taking into consideration the exercise of due diligence for the period from November 8, 2022, up
to and including February 14, 2023.

IT IS SO ORDERED.

DATED: November 4, 2022

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
SENIOR UNITED STATES DISTRICT JUDGE

**AMENDED ORDER CONTINUING
STATUS CONFERENCE**